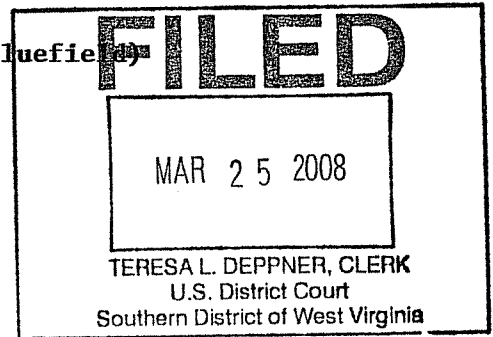


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA (Bluefield)



**MARILYN POWELL**  
**Plaintiff,**

**VS.**

**FEDERAL BUREAU OF PRISONS**  
**Defendant**

1:08-0199  
DOCKET NO.

## COMPLAINT

Comes now, Plaintiff Marilyn Powell pro se, and files with this court her complaint against the Federal Bureau of Prisons. The plaintiff is dissatisfied with Michelle T. Fuseyamore, Regional Counsel Determination in the matter of Administrative Tort Claim No, TRT-MXR 2008-00125, filed September 28, 2007.

Plaintiff Powell challenges the denial of the Administrative Tort Claim and would like to present to this court extraordinary circumstances in reference to the process of the claim. On August 14, 2007, my Unit Team moved me from my regular living quarters (B03-001U), to the "Bus Stop." The "Bus Stop" was/is designed to prevent sleep. I was deprived of sleep and peace of mind because of the noise and lighting. Sleep undoubtedly counts as one of life's basic needs, such conditions, depending on the facts, might violate the Eight Amendment.

NOISE: "[P]ublic conceptions of decency inherent in the Eight Amendment require that [inmates] be housed in an environment that, if not quiet, is at least reasonable free of excess noise." See Toussaint v. McCarthy, 597 F. Supp. 1388, 1397, 1410 (N.D.Cal.1984) (finding an "unrelenting, nerve-racking din.")

A verified complaint may be treated as an affidavit to oppose summary judgment to the extent it is "based on personal knowledge" and "sets forth specific facts admissible in evidence." See McElyea v. Babbitt, 833 F2d 196, 197-98 & n. 1 (9th Cir. 1987).

LIGHTING: "Adequate lighting is one of the fundamental attributes of "adequate shelter" required by the Eighth Amendment." See *Hoptowt v. Spellman*

,753 F2d at 783. Moreover, "[t]here is no legitimate penological justification for requiring [inmates] to suffer physical and psychological harm by living in constant illumination. This practice is unconstitutional."

The florescent lights directly in front of my bed while on the "Bus Stop" was on 24 hours a day, so that my bed was "constantly illuminated, and this condition caused be "grave sleeping problems."

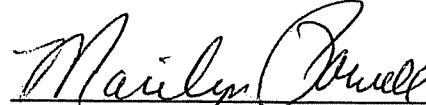
VENTILATION: "inadequate ventilation and air flow" violates the Eighth Amendment if it undermines the health of inmates and the sanitation of the penitentiary. See Hoptowit v. Spellman, 753 F2d 779, 784 (9th Cir.1985)

I was three (3) feet away from range B-3 restrooms, my bed was permeated with stale air that is saturated with the fumes of feces, the smell of urine and vomit as well as other stale bodily odors. On top of the sleeping problems I was already suffering because of the pain in my neck, shoulder and arm, these conditions caused me mental and psychological problems.

Finally on October 19, 2007 Unit Team Manager, Tina Altizer called me to her office and informed me that she was given Tort Claim TRT-MCR-2008-00125 to investigate. The same individual that ordered me to the "bus stop." (Attached to this complaint is exhibit 1, Acknowledge Receipt, exhibit 2, Claim denied letter, exhibit 3, verified complaint, Rejected BP-9, and Rejection Notice dated August 30, 2007, exhibit 4, verified complaint, letter to K.M. White, dated September 12, 2007 and Rejection Notice dated September 20, 2007.) And Exhibit 5, Emergency Evacuation Plan (B Building-Range 3)

For these reasons at hand I ask the Court to grant me this motion at hand. I have stated my reasons above, for claims for relief. Relief is due to monetary, physical, emotional and punitive damages that cause me mental anguish, and I have been injured by th Bureau Of Prison "Deliberate Indifference." \$25,000,000.00 relief for damages, Relief, claims, reasons, and fact have all plainly been stated, and I do ask for this relief and pray that you grant them.

RESPECTFULLY SUBMITTED



MARILYN POWELL, PRO SE

14972-074 B-3

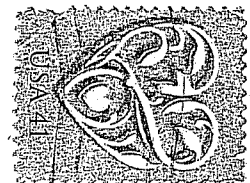
FEDERAL PRISON CAMP

P.O. BOX A

ALDERSON, WV 24910

DATE: 3/24/08

MARILYN POWELL  
14972-074 B-3  
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